(CBP Dec. 03–31)

FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR SEPTEMBER, 2003

The Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Holiday(s): September 1, 2003

European Union euro:

September 1, 2003	$1.098600
September 2, 2003	1.087200
September 3, 2003	1.084500
September 4, 2003	1.089900
September 5, 2003	1.107300
September 6, 2003	1.107300
September 7, 2003	1.107300
September 8, 2003	1.112400
September 9, 2003	1.119000
September 10, 2003	1.119500
September 11, 2003	1.118600
September 12, 2003	1.130700
September 13, 2003	1.130700
September 14, 2003	1.130700
September 15, 2003	1.130400
September 16, 2003	1.116600
September 17, 2003	1.123900
September 18, 2003	1.124000
September 19, 2003	1.134600
September 20, 2003	1.134600
September 21, 2003	1.134600
September 22, 2003	1.146800
September 23, 2003	1.148700
September 24, 2003	1.147200
September 25, 2003	1.148400
September 26, 2003	1.148200
September 27, 2003	1.148200
September 28, 2003	1.148200
September 29, 2003	1.157800
September 30, 2003	1.165000

South Korea won:

September 1, 2003	$0.000851
September 2, 2003	.000849
September 3, 2003	.000852
September 4, 2003	.000849
September 5, 2003	.000854
September 6, 2003	.000854
September 7, 2003	.000854
September 8, 2003	.000853

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for September 2003 (continued):

South Korea won: (continued):

September 9, 2003	.000855
September 10, 2003	.000855
September 11, 2003	.000852
September 12, 2003	.000852
September 13, 2003	.000852
September 14, 2003	.000852
September 15, 2003	.000853
September 16, 2003	.000855
September 17, 2003	.000853
September 18, 2003	.000854
September 19, 2003	.000858
September 20, 2003	.000858
September 21, 2003	.000858
September 22, 2003	.000868
September 23, 2003	.000867
September 24, 2003	.000869
September 25, 2003	.000868
September 26, 2003	.000870
September 27, 2003	.000870
September 28, 2003	.000870
September 29, 2003	.000869
September 30, 2003	.000869

Taiwan N.T. dollar:

September 1, 2003	$0.029308
September 2, 2003	.029308
September 3, 2003	.029283
September 4, 2003	.029308
September 5, 2003	.029308
September 6, 2003	.029308
September 7, 2003	.029308
September 8, 2003	.029326
September 9, 2003	.029326
September 10, 2003	.029326
September 11, 2003	.029326
September 12, 2003	.029326
September 13, 2003	.029326
September 14, 2003	.029326
September 15, 2003	.029300
September 16, 2003	.029326
September 17, 2003	.029326
September 18, 2003	.029317
September 19, 2003	.029369
September 20, 2003	.029369
September 21, 2003	.029369
September 22, 2003	.029586
September 23, 2003	.029630
September 24, 2003	.029603
September 25, 2003	.029656
September 26, 2003	.029603
September 27, 2003	.029603

FOREIGN CURRENCIES—Daily rates for Countries not on quarterly list for September 2003 (continued):

Taiwan N.T. dollar: (continued):

September 28, 2003	.029603
September 29, 2003	.029603
September 30, 2003	.029603

Dated: October 1, 2003

RICHARD B. LAMAN,
Chief,
Customs Information Exchange.

CIE C 43/03
LIQ–03–01–RR:OO:CI

RE: SECTION 159.34 CFR

SUBJECT: CERTIFIED RATES OF FOREIGN EXCHANGE: FOURTH QUARTER, 2003

LISTED BELOW ARE THE BUYING RATES CERTIFIED FOR THE QUARTER TO THE SECRETARY OF THE TREASURY BY THE FEDERAL RESERVE BANK OF NEW YORK UNDER PROVISION OF 31 USC 5151. THESE QUARTERLY RATES ARE APPLICABLE THROUGHOUT THE QUARTER EXCEPT WHEN THE CERTIFIED DAILY RATES VARY BY 5% OR MORE. SUCH VARIANCES MAY BE OBTAINED BY CALLING (646) 733–3065 OR (646)733–3057.

QUARTER BEGINNING OCTOBER 1, 2003 AND ENDING DECEMBER 31, 2003

COUNTRY	CURRENCY	U.S. DOLLARS
AUSTRALIA	DOLLAR	$0.683000
BRAZIL	REAL	$0.344116
CANADA	DOLLAR	$0.741785
CHINA, P.R.	YUAN	$0.120815
DENMARK	KRONE	$0.157604
HONG KONG	DOLLAR	$0.129207
INDIA	RUPEE	$0.021882
JAPAN	YEN	$0.009041
MALAYSIA	RINGGIT	$0.263158
MEXICO	NEW PESO	&0.091166
NEW ZEALAND	DOLLAR	$0.598100
NORWAY	KRONE	$0.142450
SINGAPORE	DOLLAR	$0.578704
SOUTH AFRICA	RAND	$0.144613

COUNTRY	CURRENCY	U.S. DOLLARS
SRI LANKA	RUPEE	$0.010574
SWEDEN	KRONA	$0.129391
SWITZERLAND	FRANC	$0.760572
THAILAND	BAHT	$0.025164
UNITED KINGDOM	POUND STERLING	$1.666700
VENEZUELA	BOLIVAR	$0.000625

RICHARD B. LAMAN,
Chief,
Customs Information Exchange.

LIST OF FOREIGN ENTITIES VIOLATING TEXTILE TRANSSHIPMENT AND COUNTRY OF ORIGIN RULES

AGENCY: Bureau of Customs and Border Protection, Homeland Security.

ACTION: General notice.

SUMMARY: This document notifies the public of foreign entities which have been issued a penalty claim under section 592 of the Tariff Act of 1930, for certain violations of the customs laws. This list is authorized to be published by section 333 of the Uruguay Round Agreements Act.

DATES: This document notifies the public of the semiannual list for the 6-month period starting October 1, 2003, and ending March 30, 2004.

FOR FURTHER INFORMATION CONTACT: For information regarding any of the operational aspects, contact Gregory Olsavsky, Fines, Penalties and Forfeitures Branch, Office of Field Operations, (202) 927–3119. For information regarding any of the legal aspects, contact Willem A. Daman, Office of Chief Counsel, (202) 927–6900.

SUPPLEMENTARY INFORMATION:

Background

Section 333 of the Uruguay Round Agreements Act(URAA)(Public Law 103–465, 108 Stat. 4809)(signed December 8, 1994), entitled Textile Transshipments, amended Part V of title IV of the Tariff Act of 1930 by creating a section 592A (19 U.S.C. 1592a), which authorizes the Secretary of the Treasury to publish in the **Federal Register**, on a semiannual basis, a list of the names of any producers, manufacturers, suppliers, sellers, exporters, or other persons located outside the Customs territory of the United States, when these entities and/or persons have been issued a penalty claim under section

592 of the Tariff Act, for certain violations of the customs laws, provided that certain conditions are satisfied.

The violations of the customs laws referred to above are the following: (1) Using documentation, or providing documentation subsequently used by the importer of record, which indicates a false or fraudulent country of origin or source of textile or apparel products; (2) Using counterfeit visas, licenses, permits, bills of lading, or similar documentation, or providing counterfeit visas, licenses, permits, bills of lading, or similar documentation that is subsequently used by the importer of record, with respect to the entry into the Customs territory of the United States of textile or apparel products; (3) Manufacturing, producing, supplying, or selling textile or apparel products which are falsely or fraudulently labeled as to country of origin or source; and (4) Engaging in practices which aid or abet the transshipment, through a country other than the country of origin, of textile or apparel products in a manner which conceals the true origin of the textile or apparel products or permits the evasion of quotas on, or voluntary restraint agreements with respect to, imports of textile or apparel products.

If a penalty claim has been issued with respect to any of the above violations, and no petition in response to the claim has been filed, the name of the party to whom the penalty claim was issued will appear on the list. If a petition or supplemental petition for relief from the penalty claim is submitted under 19 U.S.C. 1618, in accord with the time periods established by sections 171.2 and 171.61, Customs Regulations (19 CFR 171.2, 171.61) and the petition is subsequently denied or the penalty is mitigated, and no further petition, if allowed, is received within 60 days of the denial or allowance of mitigation, then the administrative action shall be deemed to be final and administrative remedies will be deemed to be exhausted. Consequently, the name of the party to whom the penalty claim was issued will appear on the list. However, provision is made for an appeal to the Secretary of the Treasury (now delegated to the Secretary of Homeland Security) by the person named on the list, for the removal of its name from the list. If the Secretary finds that such person or entity has not committed any of the enumerated violations for a period of not less than 3 years after the date on which the person or entity's name was published, the name will be removed from the list as of the next publication of the list.

Reasonable Care Required

Section 592A also requires any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure

that the textile or apparel products are accompanied by documentation, packaging, and labeling that are accurate as to its origin. Reliance solely upon information regarding the imported product from a person named on the list is clearly not the exercise of reasonable care. Thus, the textile and apparel importers who have some commercial relationship with one or more of the listed parties must exercise a degree of reasonable care in ensuring that the documentation covering the imported merchandise, as well as its packaging and labeling, is accurate as to the country of origin of the merchandise. This degree of reasonable care must involve reliance on more than information supplied by the named party.

In meeting the reasonable care standard when importing textile or apparel products and when dealing with a party named on the list published pursuant to section 592A of the Tariff Act of 1930, an importer should consider the following questions in attempting to ensure that the documentation, packaging, and labeling is accurate as to the country of origin of the imported merchandise. The list of questions is not exhaustive but is illustrative.

1) Has the importer had a prior relationship with the named party?

2) Has the importer had any detentions and/or seizures of textile or apparel products that were directly or indirectly produced, supplied, or transported by the named party?

3) Has the importer visited the company's premises and ascertained that the company has the capacity to produce the merchandise?

4) Where a claim of an origin conferring process is made in accordance with 19 CFR 102.21, has the importer ascertained that the named party actually performed the required process?

5) Is the named party operating from the same country as is represented by that party on the documentation, packaging or labeling?

6) Have quotas for the imported merchandise closed or are they nearing closing from the main producer countries for this commodity?

7) What is the history of this country regarding this commodity?

8) Have you asked questions of your supplier regarding the origin of the product?

9) Where the importation is accompanied by a visa, permit, or license, has the importer verified with the supplier or manufacturer that the visa, permit, and/or license is both valid and accurate as to its origin? Has the importer scrutinized the visa, permit or license as to any irregularities that would call its authenticity into question?

The law authorizes a semiannual publication of the names of the foreign entities and/or persons. On May 23, 2003, Customs and Border Protection (CBP) published a Notice in the **Federal Register** (68 FR 28238) which identified three (3) entities which fell within the purview of section 592A of the Tariff Act of 1930.

592A List

For the period ending September 30, 2003, CBP has identified 2 (two) foreign entities that fall within the purview of section 592A of the Tariff Act of 1930. This list reflects no new entities and one removal to the 3 entities named on the list published on May 23, 2003. The parties on the current list were assessed a penalty claim under 19 U.S.C. 1592, for one or more of the four above-described violations. The administrative penalty action was concluded against the parties by one of the actions noted above as having terminated the administrative process.

The names and addresses of the 2 foreign parties which have been assessed penalties by CBP for violations of section 592 are listed below pursuant to section 592A. This list supersedes any previously published list. The names and addresses of the 2 foreign parties are as follows (the parenthesis following the listing sets forth the month and year in which the name of the company was first published in the **Federal Register**):

Everlite Manufacturing Company, P.O. Box 90936, Tsimshatsui, Kowloon, Hong Kong (3/01).

Fairfield Line (HK) Co. Ltd., 60–66 Wing Tai Commer., Bldg. 1/F, Sheung Wan, Hong Kong (3/01).

Either of the above parties may petition to have its name removed from the list. Such petitions, to include any documentation that the petitioner deems pertinent to the petition, should be forwarded to the Assistant Commissioner, Office of Field Operations, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

Dated: October 1, 2003.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[Published in the Federal Register, October 8, 2003 (68 FR 58122)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS.
Washington, DC, October 8, 2003,

The following documents of the Bureau of Customs and Border Protection ("CBP"), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

Sandra L. Bell for MICHAEL T. SCHMITZ,
Assistant Commissioner,
Office of Regulations and Rulings.

REVOCATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF WATER POLO CAPS

AGENCY: Bureau of Customs & Border Protection; Department of Homeland Security.

ACTION: Notice of revocation of one tariff classification ruling letter and revocation of treatment relating to the classification of water polo caps.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), this notice advises interested parties that Customs & Border Protection (CBP) is revoking a ruling letter relating to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of a water polo cap. Similarly, CBP is revoking any treatment previously accorded by it to substantially identical merchandise. Notice of the proposed revocation was published in the Customs Bulletin of August 13, 2003, Vol. 37, No. 33. No comments were received.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after December 22, 2003.

FOR FURTHER INFORMATION CONTACT: Beth Safeer, Textiles Branch: (202) 572–8825.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (hereinafter "Title VI"), became effective.

Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility**." These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. § 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice proposing to revoke NY F80551, dated December 29, 1999, was published on August 13, 2003, in Vol. 37, No. 33, of the Customs Bulletin.

As stated in the proposed notice, this revocation will cover any rulings on this merchandise, which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing databases for rulings in addition to the one identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, an internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised Customs during the comment period. No comments were received.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C.1625 (c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical merchandise. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, CBP personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or CBP's previous interpretation of the HTSUSA. Any person involved with substantially identical merchandise should have advised CBP during the notice period. An importer's reliance on a treatment of substantially identical transactions or on a specific ruling concerning the merchandise covered by this notice which was not identified in this notice may raise the rebuttable presumption of lack of reasonable care on the part of the importer or its agents for importations subsequent to the effective date of this final decision.

In NY F80551, CBP classified a water polo cap under subheading 6505.90.8090, HTSUSA, which provides for "Hats and other head-

gear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips) . . . whether or not lined or trimmed: Other: Of man-made fibers: Other: Not in part of braid, Other: Other: Other." Based on our analysis of the scope of the terms of headings 6505 and 6506, the Legal Notes, and the Explanatory Notes, we find that water polo caps of the type subject to this notice, should be classified in subheading 6506.10.6045, HTSUSA, which provides for "Other headgear, whether or not lined or trimmed: Safety headgear: Other, Other: Athletic, recreational and sporting headgear."

Pursuant to 19 U.S.C. 1625 (c)(1), CBP is revoking NY F80551, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in Headquarters Ruling Letter (HQ) 966499 (Attachment). Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical merchandise.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective sixty (60) days after its publication in the Customs Bulletin.

DATED: October 1, 2003

Gail A. Hamill for MYLES HARMON,
Director,
Commercial Rulings Division.

Attachment

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,
HQ 966499
October 1, 2003
CLA–2 RR:CR:TE 966499 BAS
CATEGORY: Classification
TARIFF NO.: 6506.10.6045

HAROLD C. BOYKIN
BEIJING TRADE EXCHANGE, INC.
701 E St., S.E.
Washington, D.C. 20003

RE: Revocation of NY F80551, dated December 29, 1999; Classification of a water polo cap

DEAR MR. BOYKIN:

This is in reference to New York Ruling Letter (NY) F80551, issued to you on December 29, 1999. In NY F80551, a water polo cap with an outer surface of nylon fabric coated with polyvinyl chloride (PVC) plastic on the inner surface was classified under subheading 6505.90.8090, HTSUSA, which provides for "Hats and other headgear, knitted or crocheted, or made up from

lace, felt or other textile fabric, in the piece (but not in strips) . . . whether or not lined or trimmed: Other: Of man-made fibers: Other: Not in part of braid, Other: Other: Other."

Upon review of the ruling, the Bureau of Customs and Border Protection (CBP) has determined that the merchandise was erroneously classified. This ruling letter revokes NY F80551 and sets forth the correct classification determination.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S. C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY F80551, as described below, was published in the *Customs Bulletin*, Volume 37, Number 33, on August 13, 2003. CBP received no comments during the notice and comment period that closed on September 12, 2003.

FACTS:

The merchandise under consideration is a water polo cap. The water polo cap has an outer surface of nylon fabric that is coated with PVC on the inner surface. The cap has plastic ear protectors, two chin ties with one ending in a loop that holds three plastic rings to secure the cap on the wearer's head.

ISSUE:

Is the subject water polo cap classifiable under heading 9506, HTSUSA; which covers sports articles and equipment; under heading 6505, which covers hats and other headgear, knitted or crocheted, or made up from lace; or under heading 6506, which covers other headgear, whether or not lined or trimmed?

LAW AND ANALYSIS:

Classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The water polo cap at issue is substantially similar in construction and function to the water polo cap classified in HQ 083434, dated December 4, 1989. The main difference between the cap at issue and that classified in HQ 083434, dated December 4, 1989, is that the body of this cap is lined with PVC on the inner surface. Nonetheless, both hats function to protect the athlete's ears.

HEADING 9506

Heading 9506, HTSUSA, covers articles and equipment for gymnastics, athletics and other sports. However, note 1(g) to chapter 95 excludes sports headgear of Chapter 65 from consideration as sports equipment. Thus the water polo cap is not classifiable under heading 9506, HTSUSA.

HEADING 6505

Heading 6505, HTSUSA, covers hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric. The Explanatory Notes (EN) constitute the official interpretation of the Harmonized System at the international level. While the text of 6505, HTSUSA does not specifically preclude the water polo cap from classification therein, the EN to head-

ing 6505 indicate that it is not ejusdem generis with the exemplars listed. The EN to heading 6505, HTSUSA, lists various types of knitted or crocheted headgear which fall within the heading. Among those enumerated are berets, bonnets, fezzes, mortar-boards, nun's headdresses, nurses caps and textile-covered pith helmets. The enumerated exemplars are generally worn as an accessory, for a spiritual purpose or to provide warmth. A water polo cap is not worn as an accessory, for spiritual purposes or to provide warmth, but rather is worn primarily for safety reasons, to protect the wearer's ears from injury. It is our opinion, therefore, that a water polo cap is not of a class or kind with the above headgear.

HEADING 6506, HTSUSA

Heading 6506, HTSUSA, provides for other headgear, whether or not lined or trimmed. The EN to heading 6506, state that the heading covers safety headgear, for sporting activities, military or firemen's helmets, motorcyclists', miners' or construction workers' helmets, whether or not fitted with protective padding.

The article in question is protective in that it shields the wearer's ears from blows which might result from balls thrown during a water polo match. Water polo is a sport played at close quarters and the head, in particular, is exposed. The ear guards therefore afford the wearer's ears modest protection. Since the cap is designed to protect the wearer while participating in a sporting event, we find it to be classified as other headgear of heading 6506, HTSUSA.

This holding is consistent with other Customs rulings in which water polo caps have been classified in heading 6506, HTSUSA, under the provision for safety headgear. See HQ 083434, December 4, 1989 and NY J81748, dated April 16, 2003. It is also consistent with the classification of helmets used to protect bikers and skaters from head injury in heading 6506, HTSUSA. See NY D82764, dated October 9, 1998 and NY C84665, dated April 22, 1998.

HOLDING:

NY F80551, dated December 29, 1999, is hereby revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the Customs Bulletin.

The water polo cap is classified in subheading 6506.10.6045, HTSUSA, which provides for "Other headgear, whether or not lined or trimmed: Safety headgear: Other, Other: Athletic, recreational and sporting headgear." The general column one rate of duty is free.

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial Rulings Division.